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SERVICE DATE – SEPTEMBER 26, 2003

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-290 (Sub-No. 223X)

NORFOLK SOUTHERN RAILWAY COMPANY–ABANDONMENT EXEMPTION–  
IN MINGO COUNTY, WV

Decided: September 25, 2003

Norfolk Southern Railway Company (NSR) filed a notice of exemption under 49 CFR 1152 Subpart F–Exempt Abandonments to abandon a 1.59-mile line of railroad between milepost TE-1.50 at Licks Fork Spur and milepost TE-3.09 at Elda, in Mingo County, WV. Notice of the exemption was served and published in the Federal Register on August 28, 2003 (68 FR 51828). The exemption is scheduled to become effective on September 27, 2003.

The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) in this proceeding on September 2, 2003. In the EA, SEA recommends that the following conditions be imposed on any decision granting abandonment authority. First, SEA notes that the National Geodetic Survey (NGS) has identified two geodetic station markers that may be affected by the proposed abandonment. Therefore, SEA recommends that NSR provide NGS with at least 90 days' notice prior to initiation of any salvage operations that may disturb or destroy any geodetic station markers so that plans can be made for their relocation. Second, SEA states that the West Virginia Department of Environmental Protection, Division of Air Quality (DEP) has indicated that any salvage activities should not harm the air quality. Therefore, SEA recommends that, prior to beginning salvage activities, NSR be required to consult with DEP regarding the requirements of the West Virginia state regulations for fugitive dust emissions (45 CSR 17) and asbestos removal (45 CSR 15). Third, SEA states that the West Virginia Division of Natural Resources (DNR) has indicated that water quality should be protected during any salvage activities. Therefore, SEA recommends that NSR be required to implement appropriate sediment and erosion control measures during salvage activities when removing the rail and ties. Finally, SEA states that the West Virginia Division of Culture and History, West Virginia's State Historic Preservation Office (SHPO), has indicated that it requires additional information to determine whether the proposed abandonment would affect historic architectural or archeological resources. Therefore, SEA recommends that NSR be required to retain its interest in and take no steps to alter the historic integrity of the line and all sites and structures on the line until the completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA).

Comments to the EA were due by September 16, 2003. No comments were received by the due date. Accordingly, the environmental conditions recommended by SEA in the EA will be imposed.

As conditioned, this decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the exemption of the abandonment of the line described above is subject to the conditions that NSR shall: (1) provide NGS with at least 90 days' notice prior to initiation of any salvage operations that may disturb or destroy any geodetic station markers so that plans can be made for their relocation; (2) consult with DEP prior to beginning salvage activities regarding the requirements of the West Virginia state regulations for fugitive dust emissions (45 CSR 17) and asbestos removal (45 CSR 15); (3) implement appropriate sediment and erosion control measures during salvage activities when removing the rail and ties; and (4) retain its interest in and take no steps to alter the historic integrity of the line and all sites and structures on the line until the completion of the section 106 process of the NHPA.
3. This decision is effective on its service date.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams  
Secretary